

11-4934-cv

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UNITED STATES COURT OF APPEALS  
for the  
Second Circuit

YOEL WEISSHAUS,  
*Plaintiff-Appellee,*

DECLARATION

-v-

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY,  
*Defendant-Appellant*

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Megan Lee declares pursuant to 28 USC § 1746 as follows:

1. I am an attorney with the Office of James M. Begley, attorney for Defendant-Appellee The Port Authority of New York and New Jersey ("the Port Authority") in the above-referenced matter. I make this declaration in further support of the Port Authority's motion for permission to file an Appellee's Appendix.

2. The underlying Complaint was dismissed *sua sponte* by the Southern District of New York for failure to state a claim upon which relief may be granted and immunity grounds.

3. The Port Authority was never served with the Complaint in this litigation and never made an appearance before the District Court.

4. As such, the only substantive documents that were before the District Court, and therefore a part of the record on appeal, are the Order of Dismissal, Order Denying

Reconsideration, the Complaint, and the letters written to the District Court by the plaintiff.

5. On appeal, Plaintiff-Appellant Yoel Weisshaus filed an appendix with his brief that includes a multitude of documents that are not a part of the record on appeal and that was never agreed upon by the Port Authority prior to its filing.

6. Although the Port Authority objects to the consideration on appeal of any documents outside of the record on appeal from the Southern District of New York, it respectfully submits that if the appendix filed by Appellant, which includes nearly two dozen documents that were not before the District Court, is to be considered, it is fair that the Port Authority's appendix should be considered as well.

7. The Port Authority's proposed appendix consists of three documents that support the factual background of this case.

8. As such, the Port Authority respectfully requests permission to file a short Appellee's Appendix to supplement the Appendix filed by Plaintiff-Appellant, with its brief due on June 27, 2012.

Dated: June 26, 2012



Megan Lee, Esq.